

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB DEC 4, 98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re International Data Group, Inc.

Serial No. 74/631,975

Mark Harrison of Spencer, Frank & Schneider for
International Data Group, Inc.

G. T. Glynn, Trademark Examining Attorney, Law Office 102
(Myra K. Kurzbard, Managing Attorney)

Before Simms, Hanak and Hohein, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge:

International Data Group, Inc. (applicant) seeks to
register _ _ _ _ FAQs for "books in the field of business
and general reference." The intent-to-use application was
filed on February 9, 1995.

The Examining Attorney refused registration pursuant
to Section 2(e)(1) of the Lanham Trademark Act on the basis

that applicant's mark is merely descriptive of applicant's goods.

When the refusal was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant did not request a hearing.

As has been repeatedly stated, a term is descriptive if it forth with conveys an immediate idea of the ingredients, qualities or characteristics of the goods." In re Abcor Development Corp., 588 F.2d 811, 200 USPQ 215, 218 (CCPA 1978). Moreover, the descriptiveness of a mark is not determined in the abstract, but rather it is determined in relationship to the goods for which registration is sought. Abcor Development, 200 USPQ at 218.

In the first Office action, the Examining Attorney stated that "applicant's mark merely describes the fast queuing system topical information contained in applicant's computer books." In this regard, it should be noted that applicant's initial description of its goods was as follows: "Books in the fields of computers, computing, computer software, business and general reference." In support of his argument, the Examining Attorney made reference to the Anacronyms, Initialisms & Abbreviations

Dictionary (1994) where in the anacronym FAQS was defined as "fast quequing system [data processing]."

In response, applicant stated that "the term FAST QUEQUING SYSTEM has no relevance with respect to applicant's books, and consumers, upon viewing applicant's books would be hard pressed to immediately connect the term FAQS with the term FAST QUEQUING SYSTEM." Furthermore, applicant stated that "as is clear from the covers applicant's books, the designation FAQS is used by applicant as an abbreviation for the phrase FREQUENTLY ASKED QUESTIONS." (Applicant's response dated January 17, 1996 at page 3). Finally, applicant also amended its identification of goods to the present identification recited earlier in this opinion, namely, "books in the field of business and general reference."

In the second action, the Examining Attorney made final his refusal to register applicant's mark on the basis that it is merely descriptive of both books in the field of business and general reference." However, on this occasion the Examining Attorney did not contend that as applied to applicant's goods FAQS meant "fast quequing system," but rather that applicant's mark, as applied to applicant's goods, "immediately informs and merely describes to the perspective purchaser and/or product user the salient

attribute of these books, i.e., frequently asked questions in the field of business technology and general reference technology." In support of his refusal, the Examining Attorney made reference to the Dictionary of Computer Words which define the acronym FAQ as follows: "Acronym for frequently asked questions. Any of a number of questions that might be asked newcomers to a source of information on the Internet... a list FAQs and their answers is compiled by each news group and its freely available to Internet users."

Based upon the foregoing, we find that the acronym FAQS is commonly understood to mean "frequently asked questions." Indeed, as previously noted, applicant even conceded that "the designation FAQS is used by applicant as an abbreviation for the phrase FREQUENTLY ASKED QUESTIONS."

(Applicant's paper dated January 17, 1996 at page 3).

Moreover, the Examining Attorney attached to his appeal brief photocopies of selected pages from four other dictionaries demonstrating that the acronym FAQS means "frequently asked questions." The excerpts from these four additional dictionaries simply lend further support to the conclusion that FAQS is a widely recognized abbreviation for "frequently asked questions." We note that in its reply brief, applicant request that the excerpts from these

four dictionaries attached to the Examining Attorney's brief "be stricken from the record" because they "were not previously made of record during the examination process." (Applicant's reply brief page 1). However, it is well settled that this Board may take judicial notice of dictionary definitions. B.V.D. Licensing v. Body Action Design, 846 F.2d 727, 6 USPQ2d 1719, 1720 (Fed. Cir. 1988). The fact that it was the Examining Attorney who brought to the Board's attention these four additional dictionary listings does not preclude this Board from taking judicial notice of them.

We find that as applied to "books in the field of business and general reference," the anacronym FAQs would forthwith convey to consumers and important quality or characteristics of said books namely, the format of such books. That is to say, consumers of books in the field of business and general reference -- upon seeing the designation FAQs on said books -- would immediately understand that said book is arranged in a manner in which common questions are posed followed by the answers. No thought or imagination would be required of purchasers of books in the field of business and general reference to understand and that the designation FAQs immediately

conveys important information concerning the format of the book.

Finally, we note that applicant has acknowledged that "the term FAQs may be descriptive as applied to books in the field of computers, computing and computer software." (Applicant's brief page 4). While it may be true that the anacronyms FAQs is most commonly used in connection with sites on the Internet, this does not mean the abbreviation FAQs is not also descriptive of books in the field of business and general reference.

Finally, we note that at page 2 of its reply brief applicant argues that because in the first Office action the Examining Attorney attributed on meaning to FAQs and that in the second (and final) Office action the Examining Attorney attribute another meaning FAQs, that this demonstrates "the Examining Attorney's own uncertainty as to the basis for a descriptiveness refusal" and thus "is sufficient to raise some question or doubt as to whether or not this mark is descriptive." Had applicant's identification of goods remained the same, applicant's argument might possibly have some merit. However, as previously noted, applicant's original description of its goods read as follows: "Books in the fields of computer, computing, computer software, business and general

reference." In view of applicant's own chosen description of goods, it was not surprising that the Examining Attorney raised a descriptive refusal based upon the meaning of FAQS as a data processing term, namely, "fast queuing system." Thereafter, not only did applicant delete from its own identification of goods all referenced to computers, computing and computer software, but in addition applicant explicitly stated, as previously noted on two occasions, that "the designation FAQS is used by applicant as an abbreviation for the phrase frequently asked questions." Thus, given applicant's change in its description of goods and applicant's own admission, it was not all improper for the Examining Attorney to refuse registration based upon the fact that FAQS is understood to mean "frequently asked questions," and that as applied to books in the field of business and reference, this anacronym would forthwith convey important information concerning the format of such books.

Decision: The refusal to register is affirmed.

R. L. Simms

E. W. Hanak

G. D. Hohein
Administrative Trademark
Judges, Trademark Trial and
Appeal Board

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